IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

WRIT PETITION NO. 5726 OF 2006

Naresh P. Panchmatia & ors. ... Petitioners.
V/s.
State of Maharashtra & anr. ... Respondents.

Shri Kiran Jain for the petitioners.

Shri Anikkumar Patil for the respondents.

CORAM : V.C.DAGA, J.

DATED : 29.8.2006.

P.C. :

. During the course of hearing, learned Counsel for the petitioners prayed for permission to withdraw application seeking appointment of the Commissioner to inspect the suit site. Prayer made is granted.

2. In view of the withdrawal of the said application, the impugned order shall not survive. The petition is, thus, dismissed as infructuous.

3. It is, however, made clear that it would be open for the applicants- petitioners to produce sufficient material before the appellate authority to demonstrate that the petitioners did not commit any breach in the N.A. permission.

4. If such material is produced on record, it would be open for the appellate authority to

consider the same and if the appellate authority finds it difficult to reach to the conclusion as to whether or not there is any violation of the terms and conditions of N.A. permission, then, it would be open for the appellate authority to consider the prayer for appointment of the Commissioner to appreciate the material already brought on record. At that stage, it would be open for the petitioner to move an application to seek appropriate direction from the appellate authority for the same.

5. It would also be open for the petitioner to apply for time, which the appellate authiority shall consider on its own merits.

6. The petition stands disposed of in terms of this order. No order as to costs.

(V.C.DAGA,J.)